

NIGHT BOX  
FILED

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA

10 06 2000 ✓

Case No. 00-6023 CIV-Hurley  
Magistrate Lynch

CLERK, USDC / SDFL / WPB

R/S ASSOCIATES, A FLORIDA LIMITED  
PARTNERSHIP, AND DAN SHOOSTER,

Plaintiffs

vs.

BOB YARI, AND FORUM ARLINGTON  
PROPERTIES, LTD., AND ALLIANCE  
MANAGEMENT CO., LLC,

Defendants

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**REPLY MEMORANDUM IN SUPPORT OF MOTION TO DISMISS FIRST  
AMENDED COMPLAINT FOR LACK OF JURISDICTION OVER THE DEFENDANTS**

The First Amended Complaint alleges that the Arlington Mall in Texas is the subject of this dispute, that the Defendants are using Plaintiffs' trademark or trade dress in Arlington, Texas and that the Defendants breached an agreement by failing to pay Plaintiffs for services rendered with regard to the mall in Arlington, Texas. First Amended Complaint, ¶¶ 23a, 27, & 32. Thus, on the face of the complaint, this dispute obviously arose in Texas, and all of the activities complained of took place in Texas.

After the affidavit of Bob Yari was filed in support of the Motion to Dismiss, the burden shifted to Plaintiffs to prove by affidavit the basis for obtaining jurisdiction over the Defendants. *Venetian Salami v. Parthenais*, 554 So. 2d 499, 502 (Fla. 1989), cited in *Jet Charter Service v. Koeck*, 907 F.2d 1110, 1113 (11th Cir. 1990). Plaintiffs' affidavit does not

15/15

aver that any of the Defendants owns or has owned real property in the State of Florida, has or had a bank account in the State of Florida, does or has done business in the State of Florida, provides or has provided services in the State of Florida, sells or has sold goods in the State of Florida, has or has had a registered agent in the State of Florida, has or has had an office in the State of Florida, has or has had a sales agent in the State of Florida or directs or has directed any activity in the State of Florida. Plaintiffs apparently concede that Defendants are not domiciled in Florida. Accordingly the issue before the Court is whether the Defendants' in-forum activities are sufficient to subject them to "general" or "limited" personal jurisdiction in Florida. *See Sea Lift, Inc. v. Refinadora Costarricense de Petroleo, S.A.*, 792 F.2d 989, 992 (11th Cir. 1986).

Mr. Shooster's affidavit in opposition to the motion to dismiss avers:

- Defendant, Bob Yari, came to Florida "to discuss the possibility of building additional Festival Flea Markets and locations such as Texas in the future;"
- During his meetings in Florida with Defendants' employees or agents, Mr. Shooster, "discussed that Bob Yari, hopefully with me, wished to enter into agreements;"
- Defendants solicited tenants of the Florida mall "in an attempt to get them to take stores" in the Texas mall; and
- Plaintiffs provided services to Defendants which were paid for in Florida.

Shooster affidavit, ¶¶ 2-6.

Mr. Shooster's affidavit did not prove that Defendants engaged in substantial, continuous and systematic activities in Florida, so as to vest this Court with general

jurisdiction over the Defendants. Six meetings designed to gather information to use in Texas does not rise to the level of continuous, systematic activity required so that notions of due process would not be offended by haling the defendants into court here. *Compare, Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 480, 105 S. Ct. 2174, 2186 (1985), in which the defendant franchisee entered into a contract which created a 20 year franchise relationship in Florida, required him to pay fees and deliver all notices to Florida, and provided that the operation of his franchise would be subject to extensive regulation and inspections by the Florida franchiser.

Mr. Shooster's affidavit did not prove that the individual or corporate Defendants availed themselves of the benefits and protections of Florida law, so as to vest this Court with limited jurisdiction over the Defendants. As the Court in *Sea Lift* held, the “mere footfall” of Defendants on Florida’s “soil does not in any relevant sense invoke the benefits and protections of the laws of the forum.” *Sea Lift*, 792 F.2d at 992-93. Thus, despite the defendant’s solicitation of business in Florida and the mailing of payments to Florida, the Court held that, where as here, the parties are engaged in a “one-shot operation” to be performed outside the forum state, the forum court does not have jurisdiction over the defendants. *Id.* at 993-94. Interestingly, the Court found that “some in-Florida preparation” by Plaintiff was foreseeable, but not dispositive. *Id.* at 993.

Similarly, as a matter of law, the in-forum activities of Defendants at bar do not rise to the level of purposeful availment necessary to vest this court with jurisdiction over the Defendants. *Sea Lift, Inc.*, 792 F.2d at 992-94 (where contract is to be performed exclusively

in a foreign state, in-forum solicitation by defendants does not rise to level of purposeful availment, irrespective of whether there is in-forum performance by plaintiff; and mailing payments to forum state does not weigh heavily in determination of whether defendants purposefully availed themselves of benefit and protection of forum state's laws); *compare Venetian Salami*, 554 So. 2d at 503 and n. 1 (failure to pay money without more does not vest court with personal jurisdiction over a non-resident defendant); *see also Johnston v. Frank E. Basil, Inc.*, 802 F.2d 418, 419-20 (11<sup>th</sup> Cir. 1986) (advertising in an in-forum newspaper then sending a recruiter to the forum to interview an applicant for employment to be performed outside the forum does not fall within the realm of purposeful availment of the benefits and protections of state law and does not satisfy the requisites of due process).<sup>1</sup> Accepting every fact set forth in Mr. Shooster's Affidavit as true, the Court lacks personal jurisdiction over the Defendants.

The lack of jurisdiction is even more evident when one considers the Affidavit of Willard Hart and Reply Affidavit of Bob Yari. *See* Exhibits A and B, respectively. Mr. Hart acknowledges traveling to Florida to closely review Mr. Shooster's mall, which Mr. Hart was responsible for replicating in Texas. Exhibit A, ¶¶ 4-6. Similarly, Mr. Yari acknowledges all of the forum contacts set forth in Shooster's affidavit, and confirms that they were in furtherance of the re-development of the mall in Texas. Furthermore, most of the Plaintiffs' service to Defendants also was provided in Texas. Exhibit B, ¶¶ 17-23. Simply put, Defendants did not "purposefully direct" activities at the state of Florida. *See Charlie Fowler*

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<sup>1</sup> In *Johnston*, the courts applied Alabama state law. Their analysis of federal law is nonetheless illustrative.

*Evangelistic Assoc. v. Cessna Aircraft Co.*, 911 F.2d 1564, 1566 (11<sup>th</sup> Cir. 1990). Rather, Defendants gathered information about a “one-of-a-kind” flea market mall in Florida, then exported that information to and used it in Texas.

It is interesting to note that the Plaintiffs' Memorandum of Law in Opposition to the Motion to Dismiss for Lack of Jurisdiction (“Plaintiffs’ Memorandum”) does not so much as avert to, much less try to distinguish *Jet Charter Service v. Koeck*, the Eleventh Circuit case upon which the Defendants principally relied in their Motion to Dismiss. Nor do Plaintiffs cite any of a myriad of Eleventh Circuit cases concerning personal jurisdiction over non-resident defendants, *e.g.*, *Sea Lift*, *Johnston*, *Charlie Fowler*, which were decided in the last fifteen years. Instead, Plaintiffs give a general exposition of the law on personal jurisdiction and cite a California case concerning the commission of a liability producing act in the forum state.<sup>2</sup>

A distinction must be made between the Affidavit of Plaintiffs and the argument in Plaintiffs' Memorandum. Contravening proof of jurisdiction must be made by affidavit. *Venetian Salami*, 554 So. 2d at 502. Thus, particularly offensive is Plaintiffs' argument that “while Yari was in Florida,...he illegally misappropriated the intellectual property rights of Plaintiffs.” Plaintiffs' Memorandum at 5. No such averment appears in Mr. Shooster's affidavit, likely because one should be loathe to make a false statement under oath. Equally unfounded is Plaintiffs’ argument that, “All agreements were presented in Florida.” Plaintiffs’ Memorandum at 5. Mr. Shooster’s affidavit does not mention whether agreements were made

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<sup>2</sup> *Lundgren v. Superior Court*, 111 Cal. App. 3d 477, 484, 168 cal. Rptr. 717, 720 (1980). Mr. Shooster's affidavit does not aver and the Complaint does not allege that a Defendant committed a liability producing act in Florida. Thus, *Lundgren* is both irrelevant and non-binding on this Court.

and, if so, where.<sup>3</sup> Also unsupported by affidavit is Plaintiffs' contention that "it is clear by the declaration of Dan Shooster that Defendants conducted an aggressive, continuous and systematic relationship with Plaintiffs in Florida." Plaintiffs' Memorandum, at 4. On the contrary, what is clear from Mr. Shooster's affidavit is that (a) Mr. Shooster has met with Defendants in Florida on six occasions concerning a project **in Texas**; (b) during all of the meetings he had with Defendants, Shooster "discussed that Bob Yari, hopefully with me, wished to enter into agreements to build a Festival flea market" **in Texas**, (c) Plaintiffs produced a video in Florida, which Defendants used to market their mall **in Texas**, and (d) Defendants solicited four (4) Pompano Beach Festival Flea Market tenants "in an attempt to get them to take stores at the mall...**in Texas**." See Shooster Affidavit at 4-6 (emphasis added).

Plaintiffs' own affidavit demonstrates that Defendants' in-forum activities were directed exclusively toward a business venture in Texas. Thus, under *Sea Lift*, *Jet Charter Service* and *Johnston* the forum contacts alleged by Plaintiffs are insufficient. Defendants' contacts with Florida were tangential and in furtherance of a contract that was to be performed in Texas. Notions of due process would be offended by the exercise of jurisdiction in Florida. *Jet*

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<sup>3</sup> The letter agreements affixed as exhibits to the complaint bear facsimile transmission legends, which show that they were received in Broward County. Mr. Yari has sworn that he signed the letters in California and sent them to Florida. See Exhibit A to Defendants' Motion to Dismiss, ¶¶ 9-10.

*Charter Service*, 907 F.2d at 1113; *Sea Lift*, 792 F.2d at 993.

### CONCLUSION

A review of the parties' harmonious affidavits and the precedential case law demonstrates that there is no basis for obtaining jurisdiction over the Defendants. Thus, the First Amended Complaint should be dismissed.


### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing instrument has been furnished by U.S. mail to Keith A. Goldbaum, Esquire, Friedman, Rosenwasser & Goldbaum, P.A., 5355 Town Center Road, Suite 801, Boca Raton, Florida 33486, this 6<sup>th</sup> day of March, 2000.

Respectfully submitted,

NASON, YEAGER, GERSON, WHITE & LIOCE, P.A.  
1645 Palm Beach Lakes Boulevard, Suite 1200  
West Palm Beach, Florida 33401  
Telephone: (561) 686-3307; Fax: (561) 686-5442  
E-mail: eames@nygwl.com  
Attorneys for Defendants  
Florida Bar No.: 791799

By:

  
ELAINE JOHNSON JAMES





UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA

Case No. 00-6023 CIV-Hurley (Magistrate Lynch)

R/S ASSOCIATES, ET AL., PLAINTIFFS

VS.

**AFFIDAVIT OF WILLARD HART**

BOB YARI, ET AL., DEFENDANTS

FILED  
MAR 06 2000

STATE OF TEXAS

CLERK, USDC / SDFL / WPB

COUNTY OF TARRANT

Willard Hart, being duly sworn according to law, deposes and says:

1. I am over the age of twenty-one (21) years and otherwise competent to make an affidavit.
2. The following statements are true, and they are based upon my personal knowledge.
3. On July 10, 1997, I began employment as the construction manager at the site in Arlington, Texas, which is now known as the Festival Discount Mall. I work for Forum Arlington Partners, Ltd., a registered Texas partnership, which is involved in the business of real estate and does not own any property outside of the State of Texas.
4. On or about July 22, 1997, I traveled from Texas to Fort Lauderdale, Florida. Dan Shooster and Bob Yari picked me up at the airport. Mr. Yari introduced me to Mr. Shooster, and they took me to the Pompano Beach Festival Flea Market Mall.

EXHIBIT A

Affidavit of Willard Hart

Page 2

5. I was under the impression that Mr. Shooster owned the Pompano Beach Festival Flea Market Mall, and he described it as a "one of a kind" flea market mall.

6. I spent two (2) or three (3) days in Pompano Beach, carefully reviewing the Festival Flea Market Mall because I was responsible for replicating the concept in Texas.

7. Dan Shooster traveled to the Festival site in Arlington, Texas several times.

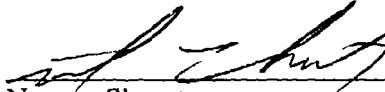
8. I am personally acquainted with Shirley Dupre and Lisa Lee. Shirley Dupre was the marketing director for the Festival in Arlington, Texas, and I hired Lisa Lee to be a leasing agent for the Festival in Texas. In 1997, Ms. Lee was involved in pre-leasing efforts for the Mall in Texas, and Ms. Dupre was responsible for marketing the Festival Mall in Texas.

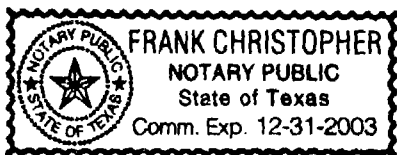
9. After I returned from Pompano Beach, Ms. Dupre and Ms. Lee traveled there during the summer of 1997 to tour the Festival Flea Market Mall in Pompano Beach.

FURTHER, AFFIANT SAYETH NAUGHT.

  
WILLARD HART

SWORN TO AND SUBSCRIBED before me this 3 day of March, 2000, by Willard Hart,  
( ) who is personally known to me OR (X) who produced TX. DL  
\_\_\_\_\_ as identification.

  
Notary Signature



\_\_\_\_\_  
Print Notary Name

NOTARY PUBLIC, State of Texas at Large  
My Commission Expires:



UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA

Case No. 00-6023 CIV-Hurley (Magistrate Lynch)

R/S ASSOCIATES, ET AL., PLAINTIFFS  
VS.  
BOB YARI, ET AL., DEFENDANTS

**REPLY AFFIDAVIT OF BOB YARI**

**NIGHT BOX  
FILED**

\_\_\_\_\_  
STATE OF CALIFORNIA            )  
  ) SS:  
COUNTY OF LOS ANGELES        )

1 31 0 6 2000 ✓

Bob Yari, being duly sworn according to law, deposes and says. CLERK, USDC / SDFL / WPB

1. I am over the age of twenty-one (21) years and otherwise competent to make an affidavit. The following statements are true and are based upon my personal knowledge.

2. None of the Defendants has an office, address, telephone listing, customers or employees in Florida, nor do we derive income from any activity or lease property in Florida.

3. I have reviewed the affidavit of Dan Shooster, as the authorized agent of R/S Associates, which is dated February 28, 2000. The following amplifies Shooster's affidavit.

4. Mr. Shooster tried to buy the property in Arlington, Texas that my company, Defendant, Forum Arlington Properties, Ltd., ultimately purchased for re-development.

5. David Morgan, a real estate developer in Texas, gave me Mr. Shooster's telephone number at his request. From California, I telephoned Mr. Shooster in Pompano Beach in 1995 to introduce myself and discuss the possibility of a business venture between us.

6. Mr. Shooster indicated that he wanted to be a partner in the Texas venture and develop a Festival Flea Market Mall concept in Arlington, Texas. He invited me to come to

EXHIBIT B

Reply Affidavit of Bob Y...

Page 2

Florida to see the Pompano Beach Festival Flea Market Mall, which he described as a prototype for the venture in Texas.

7. As Mr. Shooster's affidavit states, I traveled to Pompano Beach in December 1995, on or about July 22, 1997 (when Willard Hart met me there) and on or about November 10, 1997 (when Dennis Brown accompanied me). Those were my only business trips to Florida, and they were all for the purpose of becoming more familiar with the Festival Flea Market Mall concept, which we hoped to replicate in Texas.

8. Forum Arlington Properties, Ltd., a Texas limited partnership, owns the flea market mall and the site in Arlington, Texas on which it was developed. The mall originally was known as the Forum Mall. was re-named the Festival Marketplace, and is now known as the Festival Discount Mall. In this affidavit, I refer to it as the Festival Discount Mall.

9. Jack O'Brien, to whom Mr. Shooster refers in paragraph 3 of his affidavit, is the architect who drew the plans to renovate the site in Arlington, Texas. At my request, Mr. O'Brien traveled to Pompano Beach to view the Festival Flea Market site, so that he could replicate it in Texas.

10. I have an ownership interest in Forum Arlington Properties, Ltd., and I am the President of its general partner. Ebby Jebreel and Camm Mateem, to whom Mr. Shooster refers in paragraph 3 of his affidavit, were my limited partners in Forum Arlington Properties, Ltd. Dan Shooster desired to purchase their interests in Forum Arlington Properties, Ltd.

11. I was not privy to the conversations that Mr. Shooster had with Mr. Jebreel and Mr. Mateem in Florida in December of 1996. As the President of the corporation which is the

Reply Affidavit of Bob Yarr  
Page 3

general partner of Forum Arlington Properties, Ltd., I do, however, know and therefore aver that Mr. Jebreel and Mr. Mateem were not in Florida on business related to the development of the Festival Discount Mall in Texas. Neither of them had responsibility for developing the mall, and neither had the authority to affect or influence the development of the mall. Mr. Shooster billed us for Ebby's lodging in Florida, but we did not pay for it. *See* Exhibit 3.

12. Eventually, I purchased Mr. Jebreel's and Mr. Mateem's interests in Forum Arlington Properties, Ltd., with the understanding that Mr. Shooster would purchase those interests from me. The latter sale was not consummated.

13. Regarding paragraph 4 of Mr. Shooster's affidavit, clarification is required. Neither I nor any of my agents solicited "tenants at the Pompano Festival Flea Market Mall." Tenants of the Pompano Festival Flea Market Mall were solicited to pre-lease space in the Festival Discount Mall in 1998. These solicitations took place in Texas.

14. Leslee Shooster, the wife of Plaintiff Dan Shooster, arrived in Texas in February or March of 1998 with 15 to 20 of the merchants from the Pompano Beach Festival Flea Market Mall, who had advised the Shoosters that they were interested in opening stores in any new flea market mall that Mr. Shooster might develop.

15. Mrs. Shooster took the merchants to dinner in Texas. She billed Forum Marketplace, Ltd. for her travel from Florida to Texas and for the dinner. Payment for Mrs. Shooster's travel, hotel and the dinner was mailed to Florida from our Texas or California office. The invoice and other documentation for these expenses are attached as Exhibit 1.

Reply Affidavit of Bob Yall  
Page 4

16. While these merchants were in Texas, Lisa Lee and other employees of the Festival Discount Mall met with them and Leslee Shooster in an effort to pre-lease spaces to them in the Texas mall.

17. Only one of the merchants, Dave's Sunglasses, is a tenant of the Festival Discount Mall in Texas. The lease with Dave's Sunglasses was drafted and executed in Texas.

18. As to paragraph 6 of Mr. Shooster's affidavit, which refers to Plaintiffs' services to Defendants, Mr. Shooster traveled to the mall site in Arlington, Texas at least twelve times. He billed Forum Marketplace, Ltd. for his travel, services and expenses, and we sent payment to Florida. Invoices and other documentation are attached as Exhibits 3 & 3A.

19. While in Texas in 1997, Mr. Shooster invited Lisa Lee and Shirley Dupre to visit Florida to tour his flea market mall. In August, 1997, Ms. Lee and Ms. Dupre visited the mall in Florida, as is stated in paragraph 3 of Mr. Shooster's affidavit. Mr Shooster arranged and paid for the travel of Ms. Dupre and Ms. Lee, then billed me for it. *See Exhibit 4.*

20. Plaintiffs also provided hiring assistance to the Texas flea market project. They sent Marla Richter, a marketing representative, from Florida to Texas to help us hire a marketing person for the Texas mall. Mr. Shooster's company billed us for Marla's services, and a check for her services was sent from California to Florida. The invoice is attached as Exhibit 2.

21. Plaintiffs or their agents provided services to Festival Discount Mall or Forum Properties, Ltd. in Texas. Those services were "paid for in Florida," as Mr.


Reply Affidavit of Bob Yari  
Page 5

Shooster states in paragraph 6 of his affidavit, only to the extent that the payments were mailed to Florida from Texas or California, then were negotiated in Florida.

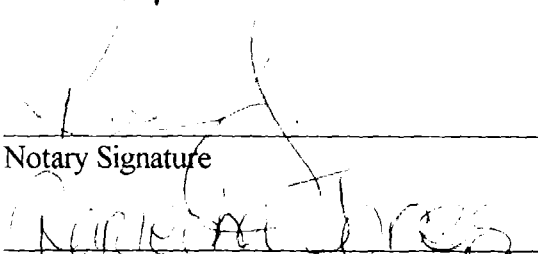
22. Mr. Shooster agreed to let Forum Marketplace, Ltd. use the videotape, "A Glimpse of Festival," which is referred to in paragraph 5 of Mr. Shooster's affidavit, for our marketing efforts in Texas. In exchange, I was required to pay Mr. Shooster an amount which he represented to be one-half (1/2) of the cost that he had incurred when he produced the video for his own mall in Florida. Shirley Dupre and Lisa Lee used the video in Texas to help pre-lease spaces in the Festival Discount Mall.

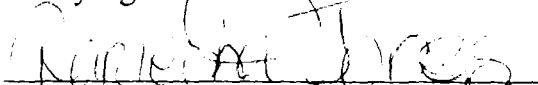
23. Mr. Shooster sent a bill for using the videotape to my office in California, and I sent the payment to Florida from my office in California. The invoice is attached as Exhibit 3.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Bob Yari

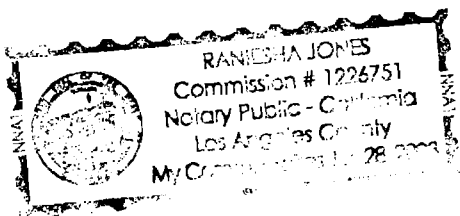
SWORN TO AND SUBSCRIBED before me this 31 day of March, 2000, by Bob Yari,  
who is personally known to me.

  
\_\_\_\_\_  
Notary Signature

  
\_\_\_\_\_  
Print Notary Name

NOTARY PUBLIC  
State of California at Large

My Commission Expires:







FESTIVAL AREA MARKET MALL  
 3900 West Sample Road  
 Pompano Beach, FL 33073  
 (954) 979-4555 Fax: (954) 968-3980

INVOICE

TO: Dennis Brown/E.Yari  
 Forum 303 Mall/Alliance Mg Co  
 10850 Wilshire Blvd.  
 Suite 1050  
 Los Angeles CA 90024

Date : 05/13/1998  
 Project : 0001  
 ID # : FORUM

Date	Reference	Description	Invoice Amount	Sales Tax	Prior Payments	Total Due
05/13/1998	980513	Travel expenses-Leslee Shooter-per attached breakdown.	3,736.31	.00	.00	\$3,736.31
TOTALS			3,736.31	.00	.00	\$3,736.31

*SL*  
*10*  
*10/7/98*



LESLIE SHOOSTER

FORUM 303 MALL CONVERSION					
CONSULTING EXPENSES					
DATE	ITEM				AMOUNT
LESLIE SHOOSTER					
3/17-	Trip To Dallas:				
3/21/98					
	Expenses:		Airline		1,954.00
			Hotel		796.36
			Dinner		305.33
			Dinner		131.44
			Lunch		7.43
			Lunch		30.48
			Car		511.27
	Consulting Fee:				To Be Discussed
TOTAL					3,736.31

*750000-01*

FORUM ARLINGTON PROPERTIES, LTD.  
2600 SOUTHWEST FREEWAY #100  
HOUSTON, TX 77098

National Bank  
7712 Main  
P.O. Box 2554  
Houston, Texas 77252

35-00  
1130

00509

PAY	DATE	AMOUNT
FIFTEEN THOUSAND ONE HUNDRED SEVENTY-THREE AND 79/100 DOLLARS	10/08/98	15,173.79

TO THE  
ORDER OF  
FESTIVAL FLEA MARKET MALL  
2900 WEST SAMPEE ROAD  
POMPAER, MO 63073

⑈005097⑈ ⑆113000609⑆ ⑈00100369249⑈

FORUM ARLINGTON PROPERTIES, LTD.

00509

GL Account #	Invoice #	Inv. Date	Co-Pro	P.O. #	Amount to Pay
7500-000-000	980513	05/13/98	19-001	TRVL REIME	3.736.31
7500-000-000	980430-1	04/30/98	19-001	TRVL REIMB	1.351.36
7410-000-000	980430-1	04/30/98	19-001	TRVL REIMB	2.409.55
7500-000-000	980430-2	04/30/98	19-001	TRVL REIME	5.676.57
TOTAL					13.173.79



FESTIVAL FLEA MARKET HALL  
 2900 West Sample Road  
 Pompano Beach, Fl 33073  
 (954) 979-4533 Fax: (954) 966-3980

INVOICE

TO: Dennis Brown/S.YarI  
 Forum 303 Mall/Alliance Mgt Co  
 10850 Wilshire Blvd.  
 Suite 1050  
 Los Angeles CA 90024

Date : 04/30/1998  
 Project : 0001  
 ID # : FORUM

Date	Reference	Description	Invoice Amount	Sales Tax	Prior Payments	Total Due
04/30/1998	980430-1	Consulting/Travel expenses - Maria Richter - per attached breakdown.	3,760.91		.00	\$3,760.91
TOTALS			3,760.91	.00	.00	\$3,760.91

*Sh*  
*Q*  
 10/12/98



Marla Richter

FORUM 303 MALL CONVERSION					
CONSULTING EXPENSES					
August 1997- March 1998					
DATE	ITEM				AMOUNT
<u>Marla Richter</u>					
1/7/98-	Trip to Dallas:		Airline		487.00
1/8/98			Hotel		182.73
			Parking		24.00
	Hours:	1/7/98	13 Hrs.		
		1/8/98	14.25 Hrs		
		Pre-Plan	10.5 Hrs.		
		TOTAL	46.75 Hrs. @ \$28.60=		1,337.05
3/9/98-	Trip to Dallas:				
3/10/98			Airline		478.00
			Hotel		175.63
			Parking		24.00
	Hours:	3/9-3/10	25Hrs. @ \$28.60=		715.00
1/28/98-	Review of Resumes, phone interviews and				
3/12/98	reference checks. 12.5 Hours @ \$28.60=				357.50
TOTAL					3,760.91

FORUM ARLINGTON PROF  
ES, LTD.  
FORUM MALL  
2600 SOUTHWEST FREEWAY #100  
HOUSTON, TX 77098

TEXAS COMMER  
National Ass  
712 Main  
P.O. Box 2556  
Houston, Texas 77252

35-60  
1130

INC.

005097

PAY: THIRTEEN THOUSAND ONE HUNDRED  
SEVENTY-THREE AND 79/100 DOLLARS

DATE

AMOUNT

10/08/98

\*\*\*\$13,173.79

TO THE  
ORDER OF FESTIVAL FLEA MARKET MALL  
2900 WEST SAMPLE ROAD  
POMPANO BEACH, FL 33075

⑈005097⑈ ⑆⑆⑆3000239⑆ ⑈00100369249⑈

FORUM ARLINGTON PROPERTIES, LTD.

005097

EL Account #	Invoice #	Inv. Date	Co-Pro	P.O. #	Amount to Pay
7500-000-000	980511	05/13/98	19-001	TRVL REIMB	3,736.31
7500-000-000	980430-1	04/30/98	19-001	TRVL REIMB	1,031.36
7410-000-000	980430-1	04/30/98	19-001	TRVL REIMB	2,409.55
7500-000-000	980430-2	04/30/98	19-001	TRVL REIMB	5,976.57
TOTAL					13,173.79





**EXHIBIT 303 MALL CONVERSIC  
CONSULTING EXPENSES TO DATE**

**Round Trip Flights to Dallas:**

<u>Date</u>	<u>Amount</u>	
January 11, 1996	\$1,123.82	10,741.82 ✓
November 13, 1996	1,374.00	
January 17, 1997	1,374.00	
March 15, 1997 -		
Daniel	1,374.00	
Leslee*	1,374.00	
April 6, 1997	1,374.00	
May 22, 1997	1,374.00	9,418. -
July 29, 1997	1,374.00	

**Expenses Paid For Miscellaneous Items:**

December 4 thru 6th, 1996		
Boca Raton Hotel - Ebby Jebreel	\$ 776.00	-) Ebby
March 15, 1997		
Weekend Visit To Traders Village		
Marriott Hotel	\$ 171.06	
Hertz Car Rental	41.00	
June 6, 1997		
Poughkeepsie Airfare	\$ 958.00	) guy manochian
July 31, 1997		
Shirley Dupre Airfare	\$ 343.64	
Lisa Lee Airfare	343.64	) rd
Festival Flea Market Mall		
Promotional Tape - 50% Of		
Actual Cost (\$24,250.00) =	\$12,125.00	+ 1,000.

**TOTAL EXPENSES PAID BY DAN SHOOSTER**

**\$25,500.16**

\* Weekend Visit To Traders Village

All Fares are Standard Coach

24,078. - ✓



Case 2:00-cv-00579-110 Document 15  
FORUM ARLINGTON PROPERTIES, LTD.  
FORUM MALL  
2600 SOUTHWEST FREEWAY #100  
HOUSTON, TX 77098

Entered on 03/07/2000  
TEXAS COMMERCE BANK  
National Associa  
712 Main  
P.O. Box 2558  
Houston, Texas 77252

Page 27 of 37  
No.

004512

PAY *Twenty Four Thousand, Twenty Eight* DATE *12/31/97* AMOUNT *\$ 24,078. —*  
*dollar and no*

TO THE ORDER OF *LS Associates*  
*2900 Robert Sample rd*  
*Pompano, Bch, Fla 33073*

NON-NEGOTIABLE

⑈004512⑈ ⑆113000609⑆ ⑈00100369249⑈

FORUM ARLINGTON PROPERTIES, LTD.

5100	000	100	12,125.00
<del>7000</del>	000	000	11,953.88
7410			<u>\$ 24,078.88</u>

POSTED

004512

*M*

**From (please print and press hard)**  
 Date 12/31/97 Sender's FedEx Account Number 1555-2327-1  
 Sender's Name Bob Yare Phone (310) 208-0029  
 Company DAY COMMERCIAL MGMT  
 Address 10850 WILSHIRE BLVD STE 1050 Dept./Floor/Suite/Room \_\_\_\_\_  
 City LOS ANGELES State CA ZIP 90024  
 Your Internal Billing Reference Information (Optional) (First 24 characters will appear on invoice) \_\_\_\_\_

**To (please print and press hard)**  
 Recipient's Name Dan Shooker Phone (951) 979-4555  
 Company Festival Flea Market  
 Address 2900 West Sample Rd Dept./Floor/Suite/Room \_\_\_\_\_  
 City Pompano Beach State FL ZIP 33073  
 For HOLD at FedEx Location check here:  
☐ Hold Weekday (Not available with FedEx First Overnight)  
☐ Hold Saturday (Available for FedEx Priority Overnight and FedEx 2Day only)  
☐ Check here if residence (Extra charge applies for FedEx Express Saver)

**Service Conditions, Declared Value, and Limit of Liability**—By using this Airbill, I agree to the service conditions in our current Service Guide or U.S. Government Service Guide. Both are available on request. SEE BACK OF AIRBILL'S COPY OF THIS AIRBILL FOR INFORMATION AND ADDITIONAL TERMS. I will not be responsible for any claim in excess of \$100 per package whether result of loss, damage, or delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, and document your

actual loss in a timely manner. Your right to recover from us for any loss includes intrinsic value of the package, loss of sales, interest, profit, attorney's fees, costs, and other forms of damage, whether direct, incidental, consequential, or special, and is limited to the greater of \$100 or the declared value but cannot exceed actual documented loss. The maximum declared value for any FedEx Letter and FedEx Pak is \$500. Federal Express may, upon your request, and with some limitations, refund all transportation charges paid. See the FedEx Service Guide for further details.

**Questions?**  
 Call 1-800-Go-FedEx (800)463-3339

*The World On Time*

003570600 5

**4a Express Package Service Packages under 150 lbs.** Delivery commitment may be later in some areas.  
☒ FedEx Priority Overnight (Next business morning)  
☐ FedEx Standard Overnight (Next business afternoon)  
☐ FedEx 2Day\* (Second business day)  
☐ FedEx Express Saver\* (Third business day)  
☐ FedEx First Overnight (Earliest next business morning delivery to select locations) (Higher rates apply)  
 \*FedEx Letter Rate not available. Minimum charge: One pound rate.

**4b Express Freight Service Packages over 150 lbs.** Delivery commitment may be later in some areas.  
☐ FedEx Overnight Freight (Next business day)  
☐ FedEx 2Day Freight (Second business day)  
☐ FedEx Express Saver Freight (Up to 3 business days)  
 (Call for delivery schedule. See back for detailed descriptions of freight services.)

**5. Packaging** ☒ FedEx Letter ☐ FedEx Pak ☐ FedEx Box ☐ FedEx Tube ☐ Other Pkg.  
 Declared value limit \$500

**6 Special Handling**  
 Does this shipment contain dangerous goods? ☐ Yes (As per attached Shipper's Declaration) ☐ Yes (Shipper's Declaration not required)  
☐ Dry Ice (Dry Ice, 9, UN 1845 III) ☐ Cargo Aircraft Only  
 (Dangerous Goods Shipper's Declaration not required)

**7 Payment**  
 Bill to: ☐ Sender (Account no. in section 1 will be billed) ☐ Recipient (Enter FedEx account no. or Credit Card no. below) ☐ Third Party ☐ Credit Card ☐ Cash/Check  
 FedEx Account No. \_\_\_\_\_ Exp. Date \_\_\_\_\_  
 Credit Card No. \_\_\_\_\_  
 Total Packages \_\_\_\_\_ Total Weight \_\_\_\_\_ Total Declared Value\* \$ \_\_\_\_\_ Total Charges\* \$ \_\_\_\_\_  
 \*When declaring a value higher than \$100 per shipment, you pay an additional charge. See SERVICE CONDITIONS, DECLARED VALUE, AND LIMIT OF LIABILITY section for further information.

**8 Release Signature** Sign to authorize delivery without obtaining signature.  
 Your signature authorizes Federal Express to deliver this shipment without obtaining a signature and agrees to indemnify and hold harmless Federal Express from any resulting claims.

**287**

WCSL 0857  
 Rev. Date 5/97  
 Part #150364  
 ©1994-97 FedEx  
 PRINTED IN U.S.A.





DATE 8/28/98

TIME \_\_\_\_\_

TO Bob Yari  
Alliance Mana  
FAX # 310-208-0110 (Fax#)

*Gerry L. Chang & Consulting Services*  
*Please input into*  
*for Forum Payroll*  
*+ process chel.*  
*HSA* *TK2*

Message ENTERED OCT 7 1998

DEAR Bob,

RECEIVED OCT 7 1998

Per our conversation, following are the open invoices. Your attention to this is much appreciated. Please call me if you have any questions. Thank you, Harlene

**CONFIDENTIALITY NOTICE:** The information contained in this fax transmittal message is privileged and confidential, and intended only for the use of the individual(s) and/or entity(ies) named above. If you are not the intended recipient, you are hereby notified that any unauthorized disclosure, copying, distribution or taking of any action in reliance on the contents of the telecopied materials is strictly prohibited. If you have received this transmittal in error, please immediately notify us by telephone (collect) to arrange for return of materials. Thank you.

2900 WEST SAMPLE ROAD • POMPANO BEACH, FLORIDA 33073-3026  
(954) 979-4555 • FAX (954) 968-3980

DEFENDANT'S  
EXHIBIT

3A

FESTIVAL

ID: 9549683980

UC 17 98

12:38 No. 010 P. 06

FESTIVAL FLEA MARKET MALL  
2900 West Sample Road  
Pompano Beach, FL 33073  
(954) 979-4555 Fax: (954) 968-3980

## INVOICE

TO: Dennis Brown/B.Yari  
Forum 303 Mall/Alliance Mg Co  
10850 Wilshire Blvd.  
Suite 1050  
Los Angeles CA 90024

Date : 04/30/1998  
Project : 0001  
ID # : FORUM

Date	Reference	Description	Invoice Amount	Sales Tax	Prior Payments	Total Due
04/30/1998	980430-2	Travel expenses - Dan Shooster - per attached breakdown.	5,676.57		.00	\$5,676.57
TOTALS			5,676.57	.00	.00	\$5,676.57

for  
G  
c-12/98



Dan Shooster

FORUM 303 MALL CONVERSION						
CONSULTING EXPENSES						
August 1997 - March 1998						
DATE	ITEM			COST	CHARGE	
Dan Shooster						
10/27/97	Trip to Dallas	Dan Shooster	Airline	1507.00	1,374.00 **	
			Hotel	180.57	180.57	
11/17/97	Trip to Dallas	Dan Shooster	Airline	1507.00	1,374.00 **	
12/7/97	Trip to L.A.	Dan Shooster	Airline	1928.00	No Charge	
		Peter Bernhardt	Airline	1928.00	No Charge	
			Hotel	742.93	No Charge	
			Legal	3000.00	No Charge	
1/14/98	Trip to Dallas:	Dan Shooster	Airline	1957.00	1,374.00 **	
3/17/98	Trip to Dallas:	Dan Shooster	Airline	1940.00	1,374.00 **	
TOTAL					5,676.57	
**Billed at standard coach fare.						



FORUM ARLINGTON PROPERTIES, LTD.

2600 SOUTHWEST  
HOUSTON, TX 77068

Houston, Texas 77252

25-00-0000  
011907

005

PAY TO THE ORDER OF SEVENTY-THREE AND 79/100 DOLLARS  
DATE 10/30/98 AMOUNT \$73.79

TO THE ORDER OF FESTIVAL FLEA MARKET MALL  
2900 WEST SAMPLER ROAD  
HOUSTON, TX 77075

⑈005097⑈ ⑆113000609⑆ ⑈00400359249⑈

FORUM ARLINGTON PROPERTIES, LTD.

00

GL Account #	Invoice #	Inv. Date	Co-Pro	P.O. #	Amount to Pay
7500-000-000	980513	05/13/98	19-001	TRVL REIMB	3.736.34
7500-000-000	980430-1	04/30/98	19-001	TRVL REIMB	1.351.36
7410-000-000	980430-1	04/30/98	19-001	TRVL REIMB	2.409.55
7500-000-000	980430-2	04/30/98	19-001	TRVL REIMB	5.676.57
TOTAL					13.173.79



**RUM 303 MALL CONVERSION  
CONSULTING EXPENSES TO DATE**

**Round Trip Flights to Dallas:**

<u>Date</u>	<u>Amount</u>
January 11, 1996	\$1,123.82
November 13, 1996	1,374.00
January 17, 1997	1,374.00
March 15, 1997 -	
Daniel	1,374.00
Leslee*	1,374.00
April 6, 1997	1,374.00
May 22, 1997	1,374.00
July 29, 1997	1,374.00

**Expenses Paid For Miscellaneous Items:**

December 4 thru 6th, 1996		
Boca Raton Hotel - Ebby Jebreel	\$ 776.00	-
March 15, 1997		
Weekend Visit To Traders Village		
Marriott Hotel	\$ 171.06	
Hertz Car Rental	41.00	
June 6, 1997		
Poughkeepsie Airfare	\$ 958.00	958.00
July 31, 1997		
Shirley Dupre Airfare	\$ 343.64	
Lisa Lee Airfare	343.64	707.28
Festival Flea Market Mall		
Promotional Tape - 50% Of		
Actual Cost (\$24,250.00) =	\$12,125.00	
<b>TOTAL EXPENSES PAID BY DAN SHOOSTER</b>		<b>\$25,500.16</b>

\* Weekend Visit To Traders Village

All Fares are Standard Coach



FORUM ARLINGTON PROP

ES, LTD.

FORUM MALL

2600 SOUTHWEST FREEWAY #100  
HOUSTON, TX 77096

TEXAS COMM

PANK

35-60

National Ac.

7180

712 Main

P.O. Box 2558

Houston, Texas 77252

PAY SIX HUNDRED EIGHTY-SEVEN AND 28/100  
DOLLARS

DATE  
10/23/97

AMOUNT  
\*\*\*\*\*\$687.28

TO THE ORDER OF  
S ASSOCIATES  
OF 2900 W SAMPLE RD  
POMPANO BE FL 33073

**NON-NEGOTIABLE**

⑈004470⑈ ⑆113000609⑆ ⑈00100369249⑈

FORUM ARLINGTON PROPERTIES, LTD.

004470

GL Account #	Invoice #	Inv.Date	Co-Pro	P.O. #	Amount to Pay
7600-000-000	102197	10/21/97	19-001		687.28
				TOTAL	687.28

CHECK REQUEST

Date: 10/21/97

No: 102197

RS Assoc.

Make Check Payable to:

~~RS Assoc.~~

Address:

2900 W. Sample St. Pompano Beach, FL 33073

\$ 1087.28

TAX ID Number

Paid From Project: 19-061

General Ledger Code: Travel

How to send payment:

Regular next package

overnight

Courier

US mail

other

Requested by:

Bob Yau

Date:

10/21/97

Approved by:

Date:

Documentation attached:

☒ yes

☐ no

Notes:

Give check to Lynda

**POSTED**

*W. Adams*  
*2/98*